

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA

v.

JAMES BEEKS

**INITIAL APPEARANCE
on Rule 5 Hearing**

CASE NUMBER 21-MJ-533

HONORABLE STEPHEN C. DRIES, presiding
Deputy Clerk: Katina Hubacz
Hearing Held: November 23, 2021 at 4:00 PM

Court Reporter: Liberty
Hearing Began: 4:08:12
Hearing Ended: 4:35:01

Appearances:

UNITED STATES OF AMERICA by: Benjamin Proctor

JAMES BEEKS, in person, and by: Joshua Uller

U.S. PROBATION OFFICE by: Hannah Graham

INTERPRETER: ☒ None ☐ Sworn

☐ CJA ☒ FDS ☐ RET

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- ☐ Defendant consents to proceed via video
 - ☒ Defendant advised of rights
 - ☐ Court orders counsel appointed
 - ☐ Defendant to reimburse at \$ Amount per month
 - ☐ Defendant advised of charges, penalties and fines
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- ☒ **Defendant does not waive his right to an identity hearing – Court makes a finding of identity**
- ☐ Defendant to be transported by the U.S. Marshal to District of Columbia
- ☒ **Defendant to be released on O/R bond to appear in District of Columbia on December 2, 2021 at 1:00 PM via Zoom**

Defense:

- Court asks if talked with Deft regarding identity
- The Deft is not willing to concede he is the person named in the complaint
- Ask to discuss this now rather than setting a future hearing

Govt:

- Understands have obtained documentation from the Deft, including a drivers license, with personal identifiers and his name
- Was arrested as part of traveling crew of Jesus Christ Superstar production
- Facts are laid out in the complaint – willing to obtain further documentation, if necessary

Court:

- Have reviewed the Complaint
- Satisfied this is the right defendant based on the complaint and will make a finding of identity

Govt:

- Have recommendations regarding bond
- Have not received any information from PTS or the Deft regarding residence, etc, so would ask for more information to make a better informed decision

PTS:

- Was able to interview the Deft so can provide oral report
- 49 years old

- Born in Jacksonville, FL
- American state citizen with US Passport
- No fixed residence – has PO box in Orlando – currently on tour and stays at hotels provided by the tour
- Tour started in Sept and goes until August 2022 – stays with friends in Florida when not on tour
- No parents – has unofficial adopted family – has 4 brothers, 1 sister who live in Florida and has a good relationship with
- Single, no children
- Completed high school - has certificate in computer programming from University of Central Florida
- Denied ever being in the military
- Employment: Lead in Broadway show Jesus Christ Superstar earning \$16,000 a month
- Been in previous productions
- No medical conditions or mental health problems, no medications
- Smokes marijuana occasionally – no substance abuse treatment
- No criminal history

Govt:

- Serious offense
- Deft who has no fixed residence which causes concern
- Hopefully can find conditions that could satisfy could appear and not be a danger to community
- Deft is one of 19 individuals that have been charged as members of Oath Keeper Group who stormed the Capitol on January 6, 2021 – other defendants have appeared – he is the last to be indicted – most have been released
- Home confinement – normally would recommend but doesn't have a home
- Recommend GPS location monitoring due to travel and evidence shows Deft has changed phone number and took certain steps to avoid prosecution
- Drove to Milwaukee instead of flying – think was deliberate
- Ask to surrender passport – FBI has custody of the passport at this time – next stop for tour is Canada for his production – oppose Deft be able to leave the country
- Suggest travel restricted to specific district – resides temporarily in Florida – no ties to Milwaukee – should be able to travel to Washington, DC but only for court matters and pretrial services meetings – otherwise recommend not travel to DC
- No firearms or destructive devices – regularly travels with firearms – usually checks guns when flying – did find magazine loader and a pistol holder in hotel room – did not find the firearm – may be in the safe – just gave code to FBI who searched the safe but unsure what the contents of the safe was
- No contact with anyone associated with Oath Keepers or anyone Defts involved in case 21CR28 DC case
- No access to electronic devices that allow communication through encrypted and non-encrypted applications – evidence Oath Keepers were coordinating through the signal app
- Report to PTS as directed

Defense:

- Agree there are conditions that can ensure his appearance in DC and protect the public
- No criminal history – is 49 years old – is not a danger to community
- Charges do not allege engaged in any violence – did enter the Capitol - seems to be guilty by association due to alleged connection to group The Oath Keepers
- Deft has unique circumstances with employment – possibility he may lose this employment – travel restrictions may affect his employment
- Have been numerous individuals arrested and vast majority have been released on bond – feel is appropriate for this Deft also
- Some other individuals have been permitted to travel outside the country for work purposes
- This deft has good reason to travel – is the lead in a traveling Broadway production
- Can be monitored without a bracelet through telephone or Facetime or some other means
- No motivation to flee – has no where to go outside the country except for his production

- Brief period of time – shows in Canada for 5 weeks – to be in Toronto the entire time
- Due to him wearing a costume for work, GPS bracelet will not work
- Don't oppose to not possess any weapons
- Confining travel will not work with his employment
- If his employment changes, can revisit

PTS:

- Recommend release with reporting to PTS, no drug use, drug testing, to attend his IA in DC
- Not sure if GPS bracelet would even work in Canada – have other options can use such as phone sharing

Govt:

- Deft has denied his identity – believe need GPS bracelet given conduct and actions he has taken after the indictment was filed – was not guilty by association – active member of group and was an active participant
- Needs to be monitored until DC appearance set for December 2, 2021 at 1:00 pm via Zoom

Court:

- Main issue is feasibility of GPS due to being an actor and whether would even work in foreign country – think can accomplish what need to another way via telephone check in
- Tour provides own stability – sounds like an excellent job - Toronto is most American foreign city there is – no need to restrict travel
- Agree with no firearms, report to PTS, no drug use, drug testing, but no travel restriction – no other stringent conditions are necessary – do not believe Deft will abscond and is not facing a lot of jail time
- Will add to restrict use of Signal Application

Govt:

- Govt asking for no contact with Oath Keepers and other co-defts in 21CR28
- Govt strongly opposes Deft getting passport and traveling to other countries until he appears in DC

Defense:

- No objection to no contact condition as long as clarifies no contact with anyone who is known to be an Oath Keeper and co-defendants in 21CR28 in DC court.
- Do not agree with restriction to encrypted/non-encrypted applications
- Request passport be returned to Deft today

Govt:

- Given concern about this and that charges are in another district, ask to stay the request for return of the passport for 24 hours to give time to consult with USAO in DC

Court:

- Confirm Deft does not need the passport tomorrow – agree is a reasonable request and will stay the return for 24 hours